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FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554

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IN REPLY REFER TO:

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RECEIVED

MAR 17 1993

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Honorable John Glenn  
United States Senate  
503 Hart Senate Office Building  
Washington, DC 20510

Dear Senator Glenn:

Thank you for your letter on behalf of Nedra Brown, Chairperson, Miami Valley Cable Council. Your constituent complains about cable television rate increases in anticipation of rate regulation under the Cable Act of 1992.

The Commission has a clear understanding that Congress adopted the Cable Act of 1992 to constrain unreasonable cable rates. The Commission is in the

# Congressional

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## CONGRESSIONAL CORRESPONDENCE TRACKING SYSTEM 02/24/93

### LETTER REPORT

| CONTROL NO. | DATE RECEIVED | DATE OF CORRESP | DATE DUE | DATE DUE OLA(857) |
|-------------|---------------|-----------------|----------|-------------------|
| 9300786     | 02/24/93      | 02/16/93        | 03/16/93 |                   |

| TITLE   | MEMBERS NAME | REPLY FOR SIG OF |
|---------|--------------|------------------|
| Senator | John Glenn   | BC               |

| CONSTITUENT'S NAME | SUBJECT                        |
|--------------------|--------------------------------|
| Nedra Brown        | Objects to cable operator fees |

REF TO

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DATE

JOHN GLENN  
OHIO

COMMITTEES:

- GOVERNMENTAL AFFAIRS, CHAIRMAN
- ARMED SERVICES
- SELECT COMMITTEE ON INTELLIGENCE
- SPECIAL COMMITTEE ON AGING

# United States Senate

WASHINGTON, DC 20510-3501

February 16, 1993

*MMB  
CATV-rate  
1786*

Ms. Lauren J. Belvin, Acting Director  
Federal Communications Commission  
1919 M Street, N.W.  
Room 808  
Washington, D.C. 20554

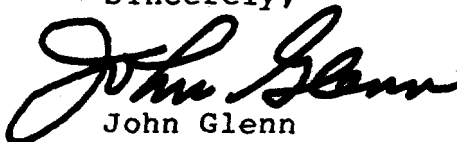
Dear Ms. Belvin:

Enclosed please find the correspondence forwarded to my office by the Miami Valley Cable Council. The Council, which represents nine jurisdictions in the Dayton, Ohio area, is concerned over recent cable television rate increases. These increases come before final regulations have been issued for the Cable Television Act of 1992.

I share Miami Valley's concern over these increases and would very much appreciate any attention you can give this problem. Please review the attached material and direct any response to the Miami Valley Cable Council, as well as to Mr. Brad White, the staffmember handling this inquiry. I appreciate your attention to this issue.

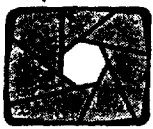
Best regards.

Sincerely,



John Glenn  
United States Senator

JG/bw



miami valley  
cable council

A municipal communications group

1195 E. Alex-Bell Road / Centerville, Ohio 45459 / Phone: (513) 438-8887 Fax: 438-8569

RECEIVED

MAR 17 1993

January 29, 1993

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

The Honorable John Glenn  
U.S. Senate  
Washington, D.C. 20510

Dear Senator Glenn:

The Miami Valley Cable Council, franchise authority for  
nine jurisdictions in South Dayton, Ohio, wishes to express its

The Honorable John Glenn  
January 29, 1993  
Page 2

will have increased by 15%, more than three times the rate of inflation.

At a recent public meeting announcing these changes, Continental admitted that approximately 75% of its customers would experience a rate increase. The public information generated so far, however, including the enclosed Dayton Daily News article, mischaracterizes the increases as adjustments and highlights the local franchise fees which will now be itemized on subscriber bills. As you know, franchise fees have for years been included in the rates charged to subscribers and are simply a cost of doing business over public rights-of-way. At the Miami Valley Cable Council, there has been no increase in the 5% franchise fee in over 15 years.

Congress wisely passed the 1992 Cable Act in order to curb operators' unfair monopoly practices and protect consumers. Our area subscribers, which number over 55,000, need immediate protection from unsubstantiated rate increases which far exceed the rate of inflation. On behalf of the Cable Council, I ask that you review these materials and support efforts by Congressman Markey and the National Association of Telecommunications Officers and Advisors (NATOA) to address these issues.

Thank you for your prompt attention to this matter.

Sincerely,



Nedra Brown, Chairperson

NB:r  
Enclosures



**Continental  
Cablevision**

December 30, 1992

Ms. Nedra Brown  
Chairwoman  
Miami Valley Cable Council  
1195 East Alex-Bell Road  
Centerville, OH 45459

Dear Ms. Brown:

On October 5, 1992, the Congress of the United States enacted The 1992 Cable Act. This legislation will affect many facets of Continental Cablevision's operations in Greater Dayton. Therefore, during the next eighteen months as various provisions of the legislation become effective, I will keep you informed of cable system changes related to this legislation.

One of the first changes to be effected by this bill, currently being addressed by the FCC, is the development of a basis for regulating broadcast basic service rates and overseeing changes in the way cable operators charge for ancillary services such as remote converters, set top converters and additional outlets. Currently, Continental prices optional ancillary services on the basis of their benefit to the subscriber. The new cable bill, however, appears to require charges for these services to be limited by the cable companies' "costs" of providing them to subscribers.

The cable bill, in our analysis, expects cable operators to have cost-based rates for ancillary services in place by April 3, 1993. Therefore, in order to fulfill the expectations of this legislation, Continental will adjust its rates effective April 1, 1993, to our approximate 158,000 cable subscribers throughout the region. The following guideline will explain the details of these adjustments:

Additional Outlets: Our additional outlet rate will be reduced by \$2.45 or 50%, to a \$2.50 monthly rate.

Set Top Converter: Historically, we have not charged a monthly service fee for set-top converters. We have chosen to continue to waive this fee in the Greater

Continental Cablevision  
page 3



1993 RATE ADJUSTMENT PER SUBSCRIBER ANALYSIS

| <u>Service</u>                                 | <u>Per Subscriber<br/>Variance</u> |
|--|------------------------------------|
| Basic Broadcast Service:                       | \$ .03                             |
| Basic/Satellite Choice Package:                | .66                                |
| First Premium Service:                         | (.08)                              |
| Additional Premium Service:                    | (.08)                              |
| Additional Outlets:                            | (.89)                              |
| Average Increase Per Subscriber:<br>(Weighted) | \$ (.36)                           |
| Percentage per Average Sub Bill:               | (1.20) %                           |
| Franchise Fee Pass Thru                        | 3.80 %                             |
| Net Average Increase/Subscriber                | 2.6 %                              |

FRANCHISE NUMBER:

1

Kettering

12/22/92

| Services               | Current<br>Rate* | New<br>Rate    | Net<br>Change | 5%<br>Franchise<br>Fee | New<br>Total   |
|------------------------|------------------|----------------|---------------|------------------------|----------------|
| BASIC BROADCAST (BB)   | \$7.75           | \$8.95         | \$1.20        | \$0.45                 | \$9.40         |
| SATELLITE SERVICE (SS) | \$14.20          | \$13.55        | (\$0.65)      | \$0.68                 | \$14.23        |
| <b>Total (BB/SS)</b>   | <b>\$21.95</b>   | <b>\$22.50</b> | <b>\$0.55</b> | <b>\$1.13</b>          | <b>\$23.63</b> |
| ADDITIONAL OUTLET COST | \$4.95           | \$2.50         | (\$2.45)      | \$0.13                 | \$2.63         |
| SET TOP CONVERTER      | \$0.00           | \$0.00         | \$0.00        | \$0.00                 | \$0.00         |
| WIRELESS REMOTE        | \$3.50           | \$3.50         | \$0.00        | \$0.18                 | \$3.68         |
| 1 PAY SERVICE          | \$10.95          | \$10.75        | (\$0.20)      | \$0.54                 | \$11.29        |
| 2 PAY SERVICES         | \$17.90          | \$17.70        | (\$0.20)      | \$0.89                 | \$18.59        |
| 3 PAY SERVICES         | \$24.85          | \$24.65        | (\$0.20)      | \$1.23                 | \$25.88        |
| 4 PAY SERVICES         | \$30.80          | \$30.60        | (\$0.20)      | \$1.53                 | \$32.13        |

\* Includes Franchise Fee

As of 11-30-92

|                             |        |
|-----------------------------|--------|
| Total Number of Subscribers | 18,618 |
| % with Additional Outlets   | 26.76% |
| % with Pay Services         | 38.53% |

# CURRENT SERVICE CHARGES

| DESCRIPTION OF SERVICE                               | CURRENT RATES | NEW RATES * |
|--|---------------|-------------|
| INSTALLATION   |               |             |
| - CABLE IN - PRIMARY OUTLET                          | 15.00         | N/A         |
| - NO CABLE - PRIMARY OUTLET                          | 50.00         | N/A         |
| - LIMITED SERVICE-BASIC BROADCAST                    | N/A           | 30.00       |
| - CHOICE PACKAGE-BASIC BROADCAST-SATELLITE           | N/A           | 20.00       |
| - CHOICE PACKAGE & 1 PAY                             | N/A           | 10.00       |
| - CHOICE PACKAGE & 2 OR MORE PAY                     | N/A           | 5.00        |
| - APT/CONDOS: ADD/MOVE OUTLETS                       |               |             |
| FIRST HOUR   | 30.00         |             |
| EACH 15 MINUTES THEREAFTER                           | 7.00          |             |
| - ADDITIONAL SERVICES REQUESTED DURING INSTALLATION: |               |             |
| MOVE PRIMARY OUTLET                                  | N/C           |             |
| NON-WIRED ADDITIONAL OUTLETS                         | N/C           |             |
| NON-WIRED ADDITIONAL OUTLETS                         | 30.00         |             |
| WIRED OUTLETS (NO LIMIT)                             | N/C           |             |
| PREMIUM SERVICES                                     | N/C           |             |
| VCR HOOK-UP  | N/C           |             |
| PARENTAL CONTROL                                     | N/C           |             |
| A/B SWITCH   | N/C           |             |
| CHANNEL TRAP   | N/C           |             |



**Continental  
Cablevision®**

January 11, 1993

Ms. Nedral Brown  
Chairwoman  
Miami Valley Cable Council  
1195 East Alex-Bell Road  
Centerville, OH 45459

Dear Ms. Brown:

After some inquiry, it has come to our attention that some figures released to you for the purpose of explaining our 1993 rate adjustment are imprecise. Specifically, references to "Franchise Fees" in the fifth column of the sheet titled Miami Valley Cable Council did not contemplate the correct amount of franchise fees to be paid to your community. They do, however, reflect the total franchise fee to be collected from the subscriber.

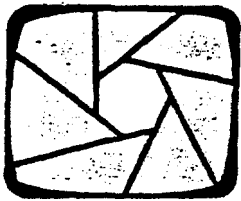
The variance between the amount collected from subscriber's  
for franchise fees and the amount of money paid to your  
community for franchise fees will be absorbed by Continental

FRANCHISE NUMBER:  
01/06/93

1

Kettering

| Services               | Current<br>Rate* | New<br>Rate | Net<br>Change | New<br>Total* | 5%<br>Franchise<br>Fee |
|------------------------|------------------|-------------|---------------|---------------|------------------------|
| BASIC BROADCAST (BB)   | \$7.75           | \$8.95      | \$1.20        | \$9.40        | \$0.47                 |
| SATELLITE SERVICE (SS) | \$14.20          | \$13.55     | (\$0.65)      | \$14.23       | \$0.71                 |
| Total (BB/SS)          | \$21.95          | \$22.50     | \$0.55        | \$23.63       | \$1.18                 |
| ADDITIONAL OUTLET COST | \$4.95           | \$2.50      | (\$2.45)      | \$2.63        | \$0.13                 |
| SET TOP CONVERTER      | \$0.00           | \$0.00      | \$0.00        | \$0.00        | \$0.00                 |
| WIRELESS REMOTE        | \$3.50           | \$3.50      | \$0.00        | \$3.68        | \$0.18                 |
| 1 PAY SERVICE          | \$10.95          | \$10.75     | (\$0.20)      | \$11.29       | \$0.56                 |
| 2 PAY SERVICES         | \$17.90          | \$17.70     | (\$0.20)      | \$18.59       | \$0.93                 |



# miami valley cable council

1195 East Alex-Bell Road • Centerville, Ohio 45459 • (513) 438-8887

January 13, 1993

Mr. Ronald J. Testa, Jr.  
Director of Corporate Affairs  
Continental Cablevision  
90 Compark Road  
Centerville, Ohio 45459

Dear Mr. Testa:

Thank you for your letter of December 10, 1992, informing us  
of planned changes regarding cable service that Continental

Ronald J. Testa, Jr.  
January 13, 1993  
Page 2

schedules present an inaccurate and misleading description of Continental's proposed rate increase and its pass-through of franchise fees. The materials are misleading and inaccurate in three respects. First, they lead the reader to believe that franchise fees are not part of your retail price, when in fact they are. Second, they overstate the impact of franchise fees on the price changes by suggesting that franchise fees are not part of your current prices, when in fact they are. Third, you have erroneously calculated the franchise fees. We request that Continental immediately correct these errors and notify those who received the December 30 letter of the corrections.

(1) If Continental chooses to itemize an amount on its bill to represent the cost of franchise fees, that amount is still part of Continental's retail price, whether or not it is separately itemized. The franchise fee is not a tax on subscribers collected by Continental. Instead, it is a cost of doing business for Continental like any other expense, such as programming, equipment, or promotion, or your salary. The franchise fee is Continental's rent expense to the franchising authorities for its use of their property and rights of way. Without this use, which precludes others from using the same capacity, Continental could not do business at all.

Thus the new subscriber rate shown must include the five percent paid in franchise fees. For this reason, in the sample calculation for Kettering appended to your letter, the heading "New Rate" is incorrect. The true "new rate" is the amount shown in the column headed "New Rate" in the amount shown as "New Rate" is merely



Ronald J. Testa, Jr.  
January 13, 1993  
Page 3

already obliged to pay franchise fees on its gross revenues, and the franchise fee cost to Continental is already included in the current rates, although this is not separately disclosed to subscribers. In other words, the "Current Rate" amounts and the "New Rate" amounts are not comparable: the "Current Rate" of \$7.75 for basic broadcast service, for example, includes a five percent franchise fee (\$0.3875), but the "New Rate" of \$8.95 does not. Because the franchise fee is listed after the current rate in an apparent progression from a current rate on the left to a new total on the right, the table strongly -- and inaccurately -- suggests that the franchise fees represent a new cost being added over and above Continental's current rates. Yet, by definition, the amount of your rate increases attributable to franchise fees can be no more than five percent of the total rate increase. Continental is responsible for the remaining 95% of any price increase. Continental may not use its new itemization of existing costs in this way to conceal the true magnitude of its rate increase, nor to misleadingly suggest to the Cable Council or to subscribers that the rate increase is due to franchise fees.

(3) The five percent franchise fee must be calculated on the entire charge to the subscriber, not on Continental's charge less

Ronald J. Testa, Jr.  
January 13, 1993  
Page 4

We therefore assume that your franchise fee calculations and your presentation of the itemized charges will be corrected before Continental's first notice to subscribers. If you have already notified subscribers, we expect your disclosure will be promptly corrected. If the increased rates are presented to subscribers as they are in the December 30 letter, and if any past disclosures are not promptly corrected, we would have no choice but to contact state and federal authorities about investigating the serious issues that would arise under applicable deceptive trade practice laws.

Please call me if you have any questions.

Sincerely,



Robert F. Walker  
Manager

RFW:r

c: Richard Hutchinson, Continental Cablevision  
Miami Valley Cable Council  
City Managers of Miami Valley Cities with Continental  
Cable Franchises



**Continental  
Cablevision**

January 19, 1993

Mr. Robert F. Walker  
Manager  
Miami Valley Cable Council  
1195 East Alex-Bell Road  
Centerville, OH 45459

Dear Mr. Walker:

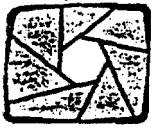
We believe that your letter of January 13, 1993, reflects several misunderstandings about Continental Cablevision's planned rate restructuring in your community. While we understand your intention to reserve such rights as you may have under the 1992 Cable Act, I want to assure you that Continental has devoted a great deal of time and attention to understanding and complying with the new Act. We do not believe that any of our actions are in derogation of the Act, but we are committed to compliance.

One central purpose of our rate revision is to adopt uniform rates for cable service in the area which the

itemize the franchise fee as a "tax," but we will be itemizing it as franchise fees in each jurisdiction which collects such fees. We also plan to tell our customers that there has not been an increase in franchise fees nor do we expect one in 1993.

We do and will continue to remit the franchise fee on gross revenues, including franchise fees. The calculations table we submitted to you reflects the amount which will be itemized on the invoice, which is fractionally less than the amount we will be paying to your community. We are scheduling the fees this way because we believe it is the least confusing method of informing customers of the percentage franchise fee which is attributable to their community. It will also permit the invoice to match the rates quoted in advertising without creating additional confusion on the bill.

We do take strong issue with your distribution letter. We were disturbed enough at the time we regarding Continental



miami valley  
cable council

A municipal communications group

1195 E. Alex-Bell Road / Centerville, Ohio 45459 / Phone: (513) 438-8887 Fax: 438-8569

*Corr. File*

January 26, 1993

Mr. Ronald J. Testa, Jr.  
Director of Corporate Affairs  
Continental Cablevision  
90 Compark Road  
Centerville, Ohio 45459

Dear Mr. Testa:

I write in response to your letter of January 19 concerning Continental Cablevision's planned rate restructuring in the area. While I appreciate your prompt response, your letter does not alleviate our concern. On the contrary, it confirms Continental's intent to characterize the franchise fee as not included in its retail price, a characterization that is simply incorrect.

We are somewhat perplexed by your statement that a "central purpose" of your rate revision is to adopt uniform rates. Rather than adopting uniform rates, your proposed rate revision actually will make Continental's rates non-uniform in the area, based on differences in franchise fees in different jurisdictions.

We recognize that the FCC is currently seeking comment on whether the uniform rate provision of the 1992 Cable Act permits a cable operator to charge different rates in different contiguous

Mr. Ronald J. Testa, Jr.  
January 26, 1993  
Page 2

"[A] cable operator might itemize...a \$1.50 per month charge to account for a five percent franchise fee obligation. If a cable operator charges \$30 per month for basic cable service, the \$1.50 itemized charge shall be included in such amount; the cable operator cannot provide the cable subscriber a basic cable bill for \$28.50, with a \$1.50 additional charge added as a franchise fee. Thus, the bill would show a total charge of \$30, but the cable operator would have the right to include in a legend a statement that the \$30 basic cable service rate includes a five percent franchise fee, which amounts to \$1.50."

House Report at 86 (emphasis added). It should also be noted that in its Notice of Proposed Rulemaking in the rate regulation proceeding, the FCC cited this page of the House Report with approval in proposing regulations dealing with subscriber bill itemization. Notice at p. 79 note 226.

For the same reasons, your suggestion that the amount

Mr. Ronald J. Testa, Jr.  
January 26, 1993  
Page 3

I hope that you now recognize your error, and that it be promptly corrected. I would be happy to discuss the matter further with you if it would be helpful.

Sincerely,



Robert F. Walker  
Manager

RFW:r

c: Richard Hutchinson, Continental  
Miami Valley Cable Council  
Tim Lay, Miller & Holbrooke  
Managers of Miami Valley cities w/Continental franchises  
Vandalia  
Englewood  
Huber Heights  
Union  
Springfield  
Xenia  
Trotwood  
Fairborn  
Beavercreek  
New Carlisle

## Monthly Service Rates

(Effective August 1, 1992)

|  |         |
|--|---------|
| Basic Broadcast Service - First Outlet | \$ 7.75 |
| - Each Additional Outlet               | \$ 1.00 |
| Satellite Service* - First Outlet      | \$14.20 |
| - Each Additional Outlet               | \$ 3.95 |
| Basic Broadcast & Satellite Service    |         |
| - First Outlet                         | \$21.95 |
| - Each Additional Outlet               | \$ 4.95 |

### Premium Services

(May be added to Basic Broadcast/Satellite Service)  
Choice of: HBO, Cinemax, Showtime, The Disney Channel

|   |         |
|---|---------|
| <input type="checkbox"/> Any One Premium Service                  | \$10.95 |
| <input type="checkbox"/> Any Two Premium Services (Save \$4.00)   | \$17.90 |
| <input type="checkbox"/> Any Three Premium Services (Save \$8.00) | \$24.85 |
| <input type="checkbox"/> All Four Premium Services (Save \$13.00) | \$30.80 |

|                           |         |
|---------------------------|---------|
| Remote Control (wireless) | \$ 3.50 |
|---------------------------|---------|

|              |      |
|--------------|------|
| Repair Calls | FREE |
|--------------|------|

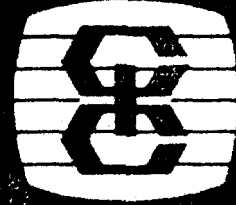
\* Satellite Service is available only as an addition to our Basic Broadcast Service.

There will be a service fee of \$3.00 for any payments not received within 40 days of due date.

## Installation Charges

|   |         |
|---|---------|
| Primary Outlet in Non-Wired Residence           | \$50.00 |
| Primary Outlet in Wired Residence               | \$30.00 |
| Additional/Relocation of Outlet (Separate Trip) | \$30.00 |
| Internal Wiring                                 | \$20.00 |
| Premium Service (Separate Trip)                 | \$ 5.00 |
| Delinquent Account Trip Charge                  | \$20.00 |
| Delinquent Account Reconnect Charge             | \$30.00 |

SOUTH OF DAYTON 792



# Continental Cablevision

## SOUTH OF DAYTON

4333 Display Lane  
P.O. Box 2300  
Kettering, Ohio 45429

Business Office & Repair:

**294-6400**

Springboro:

**743-9100**

T.D.D. Line:

**294-1850**

### CONVENIENT HOURS:

8 AM - 6 PM Monday - Friday

9 AM - 1 PM Saturday

Repair Lines are open 24 hours a day



February 1, 1993



**Continental  
Cablevision**

Dear Subscriber:

Continental Cablevision will be restructuring all subscriber rates effective April 1, 1993. Our central purpose of the rate restructure is to introduce a better measure of uniformity in rates for cable television service across our 60 community service area and to adjust rates to be what we believe is expected by the 1992 Cable Act.

As a result of the changes in this rate restructure, your new monthly cable statement may be higher, lower, or stay the same depending on your current level of cable service. However, the overall rate change will be a 2.6% percent increase in the average monthly cable bill which offsets continued increases in the cost of cable programming and system operations.

Continental's new monthly billing system will allow us to provide each subscriber with an itemized break out of their cable service each month providing you with complete information about the services for which you are paying.

Among the costs that will now be itemized, will be the franchise fee in your community which is what we pay for the use of public rights-of-way. In the past, franchise fees have been included as a part of the cable service product price. While these franchise fees have not increased this year, they will now be shown as a line item on the new bill.

The following chart explains the restructured rates for your community:

| <u>Service</u>   | <u>New<br/>Rate Structure*</u> |
|--|--------------------------------|
| Limited Service (Broadcast Tier)                             | \$ 8.95                        |
| Satellite Service (only with Basic Broadcast)                | 13.55                          |
| Choice Package (includes Broadcast Tier & Satellite Service) | 22.50                          |
| Additional outlet  | 2.50                           |
| Wireless Remote Converter                                    | 3.50                           |
| First Premium Service  | 10.75                          |
| Two-Premium Package**  | 17.70                          |
| Three-Premium Package**                                      | 24.65                          |
| Four-Premium Package**                                       | 30.60                          |
| Service Call/Repair  | Free                           |